IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

CRP.No. 769 of 2000(E)

AGAINST THE ORDER DATED 16/02/2000 IN EP.26/99 IN IA.1424/1996 IN OP.461/1995 of FAMILY COURT,THRISSUR

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REVN. PETITIONER/RESPONDENT:

SURENDRAN, S/O KOKKOOR KRISHNAN,
THRIKKUMARAKANDAM DESOM,
AYYANTHOLE VILLAGE,
THRISSUR DISTRICT.

BY ADV. SMT.M.HEMALATHA

RESPONDENT/PETITIONER:

RUGMINI ALIAS RUGMA,
D/O AYYALAKKATTIL,
KRISHNANKUTTY,
VELLARAKKAD VILLAGE DESOM,
THALAPPILLI TALUK.

BY

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.N. KRISHNAN, J.

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C.R.P. NO. 769 OF 2000

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Dated this the 22nd day of November, 2007.

O R D E R

This revision petition is preferred against the order of the Family Court, Thrissur in E.P.26/99. The execution petition is filed for arrest and detention of the husband in civil prison for non compliance of the orders of the Court to pay maintenance. The revision petitioner contended that he has no means. The Court below considered the factum of means. There is no dispute that the judgment debtor is a carpenter by profession. He has deposed that he is having ailment and therefore he cannot do any work. Under the provisions of Cr.P.C. regarding maintenance it is obligatory on the part of the husband to pay maintenance to his wife. A decree for maintenance has to be treated separately from other decrees because it is to avoid destitution of the wife and children such a benevolent provision is incorporated in all the enactments. So far as the means is concerned in a case for maintenance the Court considers the means and then only passes an order to pay maintenance. When that order is not challenged, it

takes a finality and one cannot hold that he is not having any means at all. The learned counsel for the revision petitioner strongly contends before me that on account of ailment he is not able to do any work and further he has to look after his mother and therefore he cannot be arrested as means is not proved. I am not persuaded to accept that argument because we know about the demand for carpenters in the present stage and their approximate income. Just because a person has visited a hospital and had taken some treatment for some time it will not disentitle him from doing any job unless the gravity of the injury or gravity of the ailment is established by cogent evidence which is also lacking in this case. Therefore, the Court below has weighed the evidence of PW1 and DW1 and had rendered a decision on the preponderance of probabilities and I do not find any perversity or illegality in the said order which requires any interference. Therefore the C.R.P. is dismissed.

M.N. KRISHNAN, JUDGE.

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M.N. KRISHNAN, J.

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C.R.P. No. 769 OF 2000

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O R D E R

22nd November, 2007.